

06/06

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 13 2020

Mark C. McCartt, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,

Plaintiff/~~Petitioner~~ - Appellant,

v.

LINDSEY KENT SPRINGER,

Defendant/~~Respondent~~ -
Appellee.

Motion for Leave to Proceed
on Appeal Without
Prepayment of Costs or Fees
(non-PLRA)

Case No. 09-CR-043
(10th Cir. # 20-5000)

I, Lindsey Kent Springer, the ~~petitioner~~/appellant in the
captioned case move this court for leave to proceed in forma pauperis.

In support of this motion, I state that because of my poverty, I am unable to pay the
costs of said proceedings or give security therefor, I submit the following financial
declaration.

☒ Mail ☐ No Cert Svc ☐ No Orig Sign
☐ C/J ☐ C/MJ ☐ C/Ret'd ☐ No Env
☐ No Cpy's ☒ No Env/Cpy's ☐ O/J ☐ O/MJ

FINANCIAL DECLARATION

Affidavit to Accompany Motion for Permission to Appeal in Forma Pauperis

I swear or affirm under penalty of perjury that because of my poverty I am unable to pay the docket fees of my appeal or to post a bond for them. I believe I am entitled to a different result than that reached in the district court.

I further swear or affirm under penalty of perjury that the responses which I have made to the questions and instructions below relating to my ability to pay the fees for my appeal are true.

Instructions. Please complete all questions in this application and then sign it on the last page. If the answer to any question is "0" or "none," or the question is "not applicable", so indicate by writing "0", "none", or "not applicable (N/A)". If additional space is needed to answer any question or to explain your answer to any question, please use and attach a separate sheet of paper identified with your name, the docket number of your case and the number of the question.

My issues on appeal are:

- 1) Did the district court abuse its discretion in refusing to strike the response filed on behalf the United States of America in First Step Act proceedings where Charles A. O'Reilly did not hold a current valid appointment and commission, and without a current oath to such inferior office, as a Special Assistant United States Attorney or Trial Attorney?
 - 2) Is the exhaustion of all administrative rights to appeal under 18 U.S.C. § 3582(c)(1)(A) a claim processing rule subject to waiver and forfeiture?
 - 3) Did the district court abuse its discretion in denying Springer's Motion finding exposure to asbestos and mold for 500 days not extraordinary/compelling?
1. Are you or your spouse currently employed? Yes X No

2. If you or your spouse are currently employed, state the name and address of your employer, the length of your employment with that employer, and your monthly gross pay. Gross pay is pay before any taxes or other deductions are taken. If you have more than one employer, please provide the information requested below about the other employer(s) on a separate sheet of paper and attach it to this application.

Yourself: BOP

Your Spouse: N/A

Name and Address of Employer

BOP

P.O. Box 898801

Oklahoma City, Oklahoma 73189

Name and Address of Employer

N/A

Length of Employment

9

Years

5

Months

Length of Employment

Years

Months

Monthly Gross Pay \$ 30.00

Monthly Gross Pay \$

3. If you are currently unemployed, state the date of your last employment and your monthly gross pay during your last month of employment. Gross pay is pay before any taxes or other deductions are taken.

Date of last employment (Month/Year) for yourself _____; spouse _____

Monthly gross pay during last month of employment \$ _____

4. State whether you or your spouse have received money from any of the following sources during the past twelve months, and, if so, the average monthly amount from that source. Adjust any money that was received weekly, bi-weekly, quarterly, semi-annually, or annually to show the monthly rate.

Did you receive money from any of the following sources during the past 12 months?

Average monthly amount during past 12 months for you and your spouse if applicable.

Amount expected next month

	You	Spouse	You	Spouse
Self-employment	Y/N <u>N</u>	\$ _____	\$ _____	\$ _____
Income from real property (such as rental income)	Y/N <u>N</u>	\$ _____	\$ _____	\$ _____
Interest and dividends	Y/N <u>N</u>	\$ _____	\$ _____	\$ _____
Gifts	Y/N <u>Y</u>	\$ <u>125.00</u>	\$ <u>appx.</u>	\$ <u>125.00</u>
Alimony	Y/N <u>N</u>	\$ _____	\$ _____	\$ _____

Child Support	Y/N <u>N</u>	\$ _____	\$ _____	\$ _____	\$ _____
Retirement income from sources such as social security, private pensions, annuities, or insurance policies	Y/N <u>N</u>	\$ _____	\$ _____	\$ _____	\$ _____
Disability payments such as social security, other state or federal government, or insurance payments	Y/N <u>N</u>	\$ _____	\$ _____	\$ _____	\$ _____
Unemployment payments	Y/N <u>N</u>	\$ _____	\$ _____	\$ _____	\$ _____
Public assistance payments such as welfare payments	Y/N <u>N</u>	\$ _____	\$ _____	\$ _____	\$ _____
Other sources of money (specify: _____)	Y/N <u>N</u>	\$ _____	\$ _____	\$ _____	\$ _____
TOTAL	appx.	125.00	\$ _____	\$ <u>125.00</u>	\$ _____

5. State the amount of cash you and your spouse have: \$ None

State below any money you or your spouse have in savings, checking, or other accounts in a bank or other financial institution.

Bank or Other Financial Institution:	Type of Account such as savings, checking, or CD:	Amount you have:	Amount your spouse has:
<u>BOP Trust Account</u>	<u>Trulinks</u>	\$ <u>161.00</u>	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____

If you are a prisoner seeking to appeal a judgment in a civil action or proceeding, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

THIS IS A CRIMINAL APPEAL MATTER

A-14 Motion for Leave to Proceed on Appeal without Prepayment of Costs or Fees (Non-PLRA) 12/13

6. State below the assets owned by you and your spouse. **Do not list ordinary household furnishings and clothing.** None

Home	Address: _____	Value: \$ _____
	_____	Amount owed on mortgages and
	_____	liens: \$ _____
Other real estate	Address: _____	Value: \$ _____
	_____	Amount owed on mortgages and
	_____	liens: \$ _____
Motor vehicle	Model/Year: _____	Value: \$ _____
	_____	Amount owed: \$ _____
Motor vehicle	Model/Year: _____	Value: \$ _____
	_____	Amount owed: \$ _____
Other	Description: _____	Value: \$ _____
	_____	Amount owed: \$ _____

7. State below any person, business, organization, or governmental unit that owes you or your spouse money and the amount that is owed. None

Name of Person, Business, or Organization that Owes You or Your Spouse Money	Amount Owed You:	Amount Owed Your Spouse:
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____

8. State the individuals who rely on you and your spouse for support. Indicate their relationship to you, their age, and whether they live with you.

Name	Relationship	Age	Does this person live with you?	
_____	_____	_____	Yes _____	No _____
_____	_____	_____	Yes _____	No _____
_____	_____	_____	Yes _____	No _____
_____	_____	_____	Yes _____	No _____

9. Complete this question by estimating the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, bi-weekly, quarterly, semi-annually, or annually to show the monthly rate.

	You	Spouse
Rent or home mortgage payment (include lot rented for mobile home)	\$ <u>None</u>	\$ _____
Are real estate taxes included? Yes _____ No _____		
Is property insurance included? Yes _____ No _____		
Utilities: Electricity and heating fuel	\$ <u>None</u>	\$ _____
Water and sewer	\$ <u>None</u>	\$ _____
Telephone	appx. \$ <u>40.00</u>	\$ _____
Other <u>Tulinks</u>	appx. \$ <u>30.00</u>	\$ _____
Home maintenance (Repairs and upkeep)	\$ <u>None</u>	\$ _____
Food	appx. \$ <u>50.00</u>	\$ _____
Clothing	appx. \$ <u>5.00</u>	\$ _____
Laundry and dry cleaning	\$ <u>None</u>	\$ _____
Medical and dental expenses	\$ <u>None</u>	\$ _____

Transportation (not including car payments)	\$ <u>None</u>	\$ <u> </u>
Recreation, clubs and entertainment, newspapers, magazines, etc.	\$ <u>None</u>	\$ <u> </u>
Charitable contributions	\$ <u>None</u>	\$ <u> </u>
Insurance (not deducted from wages or included in home mortgage payments)		
Homeowner's or renter's	\$ <u>None</u>	\$ <u> </u>
Life	\$ <u>None</u>	\$ <u> </u>
Health	\$ <u>None</u>	\$ <u> </u>
Auto	\$ <u>None</u>	\$ <u> </u>
Other <u> </u>	\$ <u>None</u>	\$ <u> </u>
Taxes (not deducted from wages or included in home mortgage payments) (specify) <u> </u>		\$ <u> </u>
Installment payments		
Auto:	\$ <u>None</u>	\$ <u> </u>
Credit Card: (name) <u> </u>	\$ <u>None</u>	\$ <u> </u>
Department Store: (name) <u> </u>	\$ <u>None</u>	\$ <u> </u>
Other <u> </u>	\$ <u>None</u>	\$ <u> </u>
Other <u> </u>	\$ <u>None</u>	\$ <u> </u>
Alimony, maintenance, and support paid to others	\$ <u>None</u>	\$ <u> </u>
Payments for support of additional dependents not living at your home	\$ <u>None</u>	\$ <u> </u>
Regular expenses from operation of business, profession, or farm (attach detailed statement)	\$ <u>None</u>	\$ <u> </u>
Other <u>Stamps, Envelopes</u>	\$ <u>25.00</u>	\$ <u> </u>
FRP (per quarter)	25.00	
(I am paying on over \$ 700,000.00 in restitution)		
TOTAL MONTHLY EXPENSES appx.	\$ <u>150.00</u>	\$ <u> </u>

10. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months? Yes _____ No X

If yes, describe on an attached sheet.

11. Have you spent- or will you be spending- any money for expenses or attorneys fees in connection with this case? Yes _____ No X

If yes, how much? \$ _____

If yes, provide the name, address, and telephone number of the attorney:

12. Have you promised to pay or do you anticipate paying anyone other than an attorney (such as a paralegal, typing service, or another person) any money for services in connection with this case, including the completion of this form? Yes _____ No X

If yes, how much? \$ _____

If yes, provide the name, address, and telephone number of the person or service:

13. How much can you pay each month toward the docket fee for your appeal:

\$ 5.00

14. Please provide any other information that helps to explain why you cannot pay the docket fees for your appeal.

I am in prison and have recently been transferred to another prison where I work very hard and hopefully will find a job that pays more in the future but have no way of knowing when or if that will take place.

15. State the city and state of your legal residence:

Oklahoma City, Oklahoma

Your daytime phone number:

() N/A

Your age: 54

Years of schooling: H.S. Diploma

[Last four digits of] your social security number: 3758

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT. 28 U.S.C. § 1746, 18 U.S.C. § 1621.

Date: January 9, 2020 Signature: Lindsey K. Springs

CERTIFICATE OF SERVICE

I hereby certify that on January 9, 2020 I sent a copy of
[date]
the foregoing Motion for Leave to Proceed on Appeal without Prepayment of

Costs of Fees, to:

Clerk of Court, at 333 West Fourth Street, Tulsa,
Oklahoma 74103

_____, the last known

address/email address, by First Class, Postage Prepaid, U.S. Mail;

[state method of service]

I further certify that the following are registered users of the ECF System and shall receive service of the above Motion through that system:

Charles A. O'Reilly

1-9-2020
Date

Andrew K. Sprunger
Signature

DECLARATION OF MAILING

I declare under the penalty of perjury pursuant to 28 U.S.C. § 1746(1), under the laws of the United States of America, that on January 9, 2020, I deposited the above Motion in the U.S. Mailbox located inside the Federal Transfer Center in Oklahoma City, Oklahoma, to the address for the Clerk of Court listed above.

Andrew K. Sprunger
Declarant

NAME: Lindsey Kent Spry
REG# 02580-063
FEDERAL TRANSFER CENTER
P.O. BOX 898801
OKLAHOMA CITY, OK 73189-8801

OKLAHOMA CITY, OK 73189



10 JAN 2020 PM 6 L

Postmarked 1/10/20-02
09-CR-43-SPF-1

02580-063

Clerk Of Court
Northern District of Okla
333 W 4TH ST
Tulsa, OK 74103
United States

RECEIVED

JAN 13 2020

Mark C. McCartt, Clerk
U.S. DISTRICT COURT

Sealed In the
Presence of Staff

74103-383593

**Sealed In the
Presence of Staff**